



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

ROBINSON, MCFADDEN & MOORE, P.C.
COLUMBIA, SOUTH CAROLINA

Bonnie D. Shealy

1901 MAIN STREET, SUITE 1200
POST OFFICE BOX 944
COLUMBIA, SOUTH CAROLINA 29202

PH
(803) 779-8900 | (803) 227-1102 *direct*

FAX
(803) 744-1556 *direct*

bshealy@robinsonlaw.com

June 27, 2013

VIA ELECTRONIC FILING

Jocelyn Boyd, Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

**Re: Application of Duke Energy Carolinas for Authority to Adjust and
Increase Its Electric Rates and Charges
Docket No. 2013-59-E**

Dear Ms. Boyd:

Enclosed for filing on behalf of Duke Energy Carolinas, LLC is the Company's Return in Opposition to Motion for Reconsideration of Joseph Wojcicki in the above referenced docket. By copy of this letter we are also serving Mr. Wojcicki, counsel for the South Carolina Office of Regulatory Staff and other parties of record.

Should you have any questions, please contact me.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.

Bonnie D. Shealy

/bds
Enclosure

cc/enc: Mr. Joseph Wojcicki
Other Parties of Record

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2013-59-E

In the Matter of:)	
)	
Application of Duke Energy Carolinas,)	DUKE ENERGY CAROLINAS,
LLC for Authority to Adjust and Increase)	LLC’S RETURN IN OPPOSITION
Its Electric Rates and Charges)	TO MOTION FOR
)	RECONSIDERATION OF
)	JOSEPH WOJCICKI
)	

Duke Energy Carolinas, LLC (“Duke Energy Carolinas” or “Company”) hereby responds to the Motion for Reconsideration of the Directive of the Public Service Commission of South Carolina (“Commission”) dated June 19, 2013, Denying Joseph Wojcicki’s Petition to Intervene (“Motion”).¹ For the reasons set forth below, the Motion for Reconsideration should be denied because Mr. Wojcicki lacks standing to intervene in this proceeding.

Mr. Wojcicki’s Motion offers insufficient justification to support a finding of standing because he fails to demonstrate a concrete and particularized “injury in fact” imminently tied to the case at hand as required by South Carolina law. *Sea Pines Ass’n. for Protection of Wildlife v. S.C. Dept. of Natural Resources*, 345 S.C. 594, 550 S.E.2d 287, 291 (Sup.Ct. 2001), *quoting Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992). A party must have a personal stake in the subject matter in order to have standing. *Duke Power v. S.C. Public Serv. Com’n*, 284 S.C. 81, 326 S.E.2d 395, 404 (Sup. Ct. 1985). The Commission correctly determined that Mr. Wojcicki’s technical interest in the subject of this case is not sufficient to establish standing.

¹ Upon information and belief, a written order denying Mr. Wojcicki’s Petition to Intervene has not yet been issued in this docket.

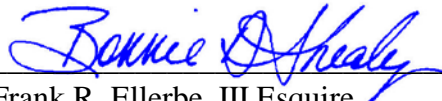
The Motion, like the Petition to Intervene, fails to assert any grounds to show that Mr. Wojcicki has a legally protected interest in this case. In the Commission's Directive denying Mr. Wojcicki's petition to intervene, the Commission concluded that Mr. Wojcicki lacked standing because he does not have a personal stake in the outcome of this proceeding, either as a customer or otherwise. The Commission also did not find an injury to a legally protected interest that would necessitate granting intervention. As the Commission correctly held, Mr. Wojcicki's technical interest as an "independent energy consultant" does not rise to the level of a real party in interest. He failed to show that he has a real, actual, material or substantial interest in the subject matter of the action required by South Carolina law to participate as a party in a case. *Ex Parte Government Employees Ins. Co.*, 644 S.E. 2d at 702. Mr. Wojcicki is not an electric customer of Duke Energy Carolinas. The Motion fails to demonstrate how he would be personally affected by the outcome as a ratepayer or customer of Duke Energy Carolinas.

Furthermore, Wojcicki's Motion does not provide any new matters of fact or law that would support reversing the Commission's decision denying intervention. Petitioner's allegation that he should be granted intervenor status in Duke Energy Carolinas' 2013 Application to Adjust and Increase Electric Rates docket because another *pro se* intervenor was allowed to participate in an entirely different docket, Duke Energy Carolinas' 2011 Amended Project Development Application, is without merit on its face. Each person asserting standing to intervene must demonstrate a legal injury related to the facts of that particular docket. Mr. Wojcicki is not a Duke Energy Carolinas customer. He has failed to state an actual or likely invasion of a legally protected interest which is (1) concrete and particularized, and (2) actual or imminent, not conjectural or hypothetical. *Smiley v. S.C. Dept. of Health & Envtl. Control*, 374 S.C. 326, 329, 649 S.E. 2d 31, 32-33 Sup. Ct. 2007); *Sea Pines Ass'n. for Protection of Wildlife*

v. S.C. Dept. of Natural Resources, 345 S.C. 594, 550 S.E.2d 287 (Sup.Ct. 2001). The Commission correctly determined that Mr. Wojcicki failed to meet the threshold required to qualify as an intervenor in this proceeding and denied his petition. His Motion makes no new assertions that would justify reversing this determination. Therefore, Duke Energy Carolina respectfully requests that the Commission deny Mr. Wojcicki's Motion for Reconsideration.

Dated this 27th day of June, 2013.

Robinson McFadden & Moore, P.C.



Frank R. Ellerbe, III Esquire
Bonnie D. Shealy, Esquire
1901 Main Street, Suite 1200
Post Office Box 944
Columbia, SC 29202
Tel: (803)779-8900
Email: fellerbe@robinsonlaw.com
bshealy@robinsonlaw.com

and

Timika Shafeek-Horton, Deputy General Counsel
Heather S. Smith, Deputy General Counsel
Charles A. Castle, Associate General Counsel
Duke Energy Carolinas, LLC
550 South Tryon Street - DEC 45 A
Charlotte, North Carolina 28202
Email: timika.shafeek-horton@duke-energy.com
heather.smith@duke-energy.com
alex.castle@duke-energy.com

Attorneys for Duke Energy Carolinas, LLC

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2013-59-E**

In Re:)
)
Application of Duke Energy Carolinas, LLC)
for Authority to Adjust and Increase Its)
Electric Rates and Charges)
_____)

CERTIFICATE OF SERVICE

This is to certify that I, Toni Hawkins, a paralegal with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below ***Duke Energy Carolinas, LLC's Return to Opposition to Motion for Reconsideration of Joseph Wojcicki*** in the foregoing matter as follows:

VIA ELECTRONIC MAIL TO:

Office of Regulatory Staff
Nanette Edwards, Esquire nedwards@regstaff.sc.gov

Courtney Edwards, Esquire cedwards@regstaff.sc.gov

Shannon Hudson, Esquire shudson@regstaff.sc.gov

Commission of Public Works of City of Spartanburg, South Carolina
Spartanburg Sanitary Sewer District
Richard L. Whitt, Esquire rwhitt@austinrogerspa.com

SC Small Business Chamber of Commerce
John J. Fantry, Jr., Esquire jfantry@bellsouth.net

South Carolina Energy Users Committee
Scott A. Elliott, Esquire selliott@elliottlaw.us

Wal-Mart Stores East, LP
Sam's East, Inc.
Stephanie U. Roberts, Esquire sroberts@spilmanlaw.com and
Derrick P. Williamson, Esquire dwilliamson@spilmanlaw.com

Mr. Joseph Wojcicki Joe4ocean@aim.com

VIA U.S. MAIL TO:

John F. Wiebel
105 Mansion Circle
Piedmont, Sc 29673-7849

Mr. Joseph Wojcicki
820 East Steele Road
West Columbia, SC 29170-1125

Dated at Columbia, South Carolina this 27th day of June, 2013.


Toni Hawkins